(2)

91-2050

No.

FILED
JUN 22 1992
OFFICE OF THE CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1991

RAY G. BESING AND RAY G. BESING & ASSOCIATES, P.C.,
Petitioners,

v.

SEELIGSON, DOUGLASS, FALCONER & VANDEN EYKEL, P.C.;
M. J. "IKE" VANDEN EYKEL; THOMAS T. ROGERS;
LYNCH, CHAPPEL, ALLDAY AND ALLSUP;
AND SMALL, CRAIG & WERKENTHIN
Respondents.

APPENDIX TO THE PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

JAMIE WALL
Texas State Bar Card 20756700
12222 Merit Drive, Suite 955
Dallas, Texas 75251
(214) 991-0991
(214) 991-0993 fax

Counsel for Petitioners
Ray G. Besing and
Ray G. Besing & Associates, P.C.

June 22, 1992

Note: None of the corporations listed as parties to this proceeding have parent companies or subsidiaries.

SECTION A

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 91-1793

IN THE MATTER OF:

RAY G. BESING & ASSOCIATES and RAY G. BESING,

Debtors.

RAY G. BESING & ASSOCIATES and RAY G. BESING,

Appellants,

versus

SEEGLIGSON, DOUGLAS, FALCONER & VANDEN EYKEL,
A Professional Corporation;
M. J. "IKE" VANDEN EYKEL; THOMAS T. ROGERS;
LYNCH, CHAPPELL, ALLDAY & ALSUP; and
SMALL, CRAIG & WERKENTHIN,

Appellees.

Appeal from the United States District Court for the Northern District of Texas
(CA3-90-2561-D)

(Feb. 21, 1992)

Before JOLLY and EMILIO M. GARZA, Circuit Judges, and SHAW, District Judge.*

E. GRADY JOLLY, Circuit Judge:**

Ray G. Besing, a Dallas attorney, and his law firm, Ray G. Besing & Associates, P.C. (collectively "Besing") appeal from the district court's judgment affirming the bankruptcy court's summary judgment in favor of the appellees. Besing had sought

---

*Chief Judge of the United States District Court for the Western District of Louisiana, sitting by designation.

**Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

a declaratory judgment that his legal malpractice claims against the appellees were not time-barred because of the tolling provisions of 11 U.S.C. § 108(a)[1]; however, the bankruptcy and district courts held that a prior state court judgment collaterally estopped Besing from relitigating the applicability of section 108(a). We AFFIRM.

I.

On March 25, 1988, Besing filed a voluntary bankruptcy petition under Chapter 11. Besing listed his claims against the appellees as assets in the bankruptcy schedules. No trustee was appointed, and the cases have not been closed.

On June 25, 1989, the bankruptcy court confirmed Besing's joint plan of reorganization. The plan did not contain any reservation of proceeds from the legal malpractice claims for the benefit of Besing's creditors.

On September 19, 1989, Besing sued the appellees for legal malpractice in Texas state court. On May 31, 1990, the state court granted the appellees' motion for summary judgment, holding that Besing's suit was barred by the statute of limitations. The state court concluded that confirmation of Besing's plan of reorganization terminated Besing's status as debtor-in-possession and, therefore, Besing was not entitled to rely on 11 U.S.C.

---

[1]Section 108(a) of the Bankruptcy Code extends the time for filing suit on a debtor's cause of action that is not already barred by limitations on the date of the filing of the bankruptcy petition:

> (a) If applicable nonbankruptcy law . . . fixes a period within which the debtor may commence an action, and such period has not expired before the date of the filing of the petition, the trustee may commence such action only before the later of —
>
> (1) the end of such period, including any suspension of such period occurring on or after the commencement of the case; or
>
> (2) two years after the order of relief.

11 U.S.C. § 108(a).

§108(a) to extend the period of limitations for two years from the date of filing bankruptcy. Besing's appeal from the state court's judgment is still pending.

II.

On June 14, 1990, Besing filed a complaint in bankruptcy court, seeking a declaratory judgment that Besing had standing to invoke section 108(a) when the state court malpractice action was filed. The parties filed cross-motions for summary judgment. The bankruptcy court granted the appellees' motion for summary judgment, applying collateral estoppel and holding that the state court judgment barred Besing from re-litigating the applicability of section 108(a). The district court affirmed the bankruptcy court's judgment, and Besing filed a timely notice of appeal.

III.

"A federal court determining the preclusive effect of prior state court judgments must apply the law of the state from which the judgment emerged." *Eubanks v. Getty Oil Co.*, 896 F.2d 960, 962 (5th Cir.), *cert. denied*, ___ U.S. ___, 111 S.Ct. 252 (1990). Under Texas law, "[t]he party seeking to invoke the doctrine of collateral estoppel must establish that (1) the facts sought to be litigated in the second suit w[ere] fully and fairly litigated in the prior action; (2) those facts were essential to the judgment in the first action; and (3) the parties were cast as adversaries in the first action." *Scurlock Oil Co. v. Smithwick*, 787 S.W.2d 560, 562 (Tex. App. — Corpus Christi 1990).

Besing argues that the state court judgment is not entitled to collateral estoppel effect for two reasons: (1) the pending state court appeal is a *de novo* review of a pure question of law and, therefore, the state court judgment is not final; and (2) regardless of finality, the nature of bankruptcy law as a unique and specialized body of federal law, jurisdiction of which is committed to the federal courts, brings this case within the "special allocation of jurisdiction" exception to collateral estoppel recognized in Restatement (Second) of Judgments section 28.

A

In *Scurlock Oil Co. v. Smithwick*, 724 S.W.2d 1 (Tex. 1986), the Texas Supreme Court adopted section 13 of the Restatement (Second) of Judgments, which provides that a judgment is final for purposes of collateral estoppel "despite the taking of an appeal unless what is called an appeal actually consists of a trial de novo." 724 S.W.2d at 6.

Besing argues that the *de novo* exception applies here because the state trial court's summary judgment was based upon undisputed facts and involved in pure legal issue— the applicability of section 108(a). Therefore, according to Besing, the state appellate court will interpret section 108 anew, without any presumption or deference to the trial court's ruling.

Besing failed to present this argument to the bankruptcy and district courts. We ordinarily refuse to consider issues not raised before the trial court, unless the "new issue raises a pure question of law, and failure to consider it would result in a miscarriage of justice." *Batiansila v. Advanced Cardiovascular Systems, Inc.*, ___ F.2d ____, 1992 WL 7600, *2 (5th Cir. 1992). Although Besing's argument raises a "pure question of law," our failure to consider it will not result in a "miscarriage of justice," because the argument is meritless. Texas courts define a trial *de novo* as:

> A de novo trial means "anew, afresh; in the same manner; with the same effect; a second time." Power to try a case de novo vests a court with full power to determine the issues and rights of all parties involved, and to try the case as if the suit had been filed originally in that court . . . . [W]e conclude that a de novo judicial trial means a full civil trial on the facts as well as the law.

Lone Star Gas Co. v. State, 137 Tex. 279, 153 S.W.2d 681, 692 (1941) (citations omitted). The state appellate court's review of the state trial court's judgment is not a trial *de novo*, but an exercise of appellate jurisdiction. Therefore, the *de novo* exception relied on by Besing is inapplicable.

B

Besing next contends that the application of collateral estoppel is inappropriate pursuant to the Restatement (Second) of Judgments, section 28, which provides:

> Although an issue is actually litigated and determined by a valid and final judgment, and the determination is essential to the judgment, relitigation of the issue in a subsequent action between the parties is not precluded in the following circumstances:
>
> * * *
>
> (3) A new determination of the issue is warranted by differences in the quality or extensiveness of the procedures followed in the two courts or by factors relating to the allocation of jurisdiction between them . . .

Besing argues that the allocation of jurisdiction between the bankruptcy court and the state court, and the federal judiciary's dominance over bankruptcy law, warrants a new determination by the bankruptcy court regarding the applicability of section 108(a).

Besing concedes that the state court had subject matter jurisdiction. As this court recently noted, "the only aspect of the bankruptcy proceeding over which the district courts and their bankruptcy units have exclusive jurisdiction is 'the bankruptcy petition itself.' " *Matter of Brady, Texas, Municipal Gas Corp.*, 936 F.2d 212, 218 (5th Cir.), *cert. denied sub nom. Sanders v. City of Brady, Tex.*, ____ U.S. ____, 112 S. Ct. 657 (1991). "In other matters arising in or related to title 11 cases, unless the [Bankruptcy] Code provides otherwise, state courts have concurrent jurisdiction, and bankruptcy courts are prohibited from relitigating these matters if the state courts have already resolved them." *Id.*

The state court's determination that the statute of limitations was not tolled by section 108(a) is not a matter that is within the exclusive jurisdiction of the bankruptcy court. Therefore, the "special allocation of jurisdiction" exception to collateral estoppel is inapplicable.

C

Because we hold that application of collateral estoppel was appropriate, it is not necessary for us to reach the merits regarding the applicability of section 108(a).

III.

The bankruptcy and district courts correctly held that Besing is collaterally estopped from relitigating the applicability of 11 U.S.C. § 108(a). Accordingly, the judgment of the district court is

AFFIRMED.

SECTION B

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

NO. 91-1793

IN THE MATTER OF:

RAY G. BESING & ASSOCIATES and RAY G. BESING,

Debtors.

RAY G. BESING & ASSOCIATES and RAY G. BESING,

Appellants,

versus

SEEGLIGSON, DOUGLAS, FALCONER & VANDEN EYKEL,
A Professional Corporation;
M. J. "IKE" VANDEN EYKEL; THOMAS T. ROGERS;
LYNCH, CHAPPELL, ALLDAY & ALSUP; and
SMALL, CRAIG & WERKENTHIN,

Appellees.

Appeal from the United States District Court for the Northern District of Texas

---

ON PETITION FOR REHEARING

(March 24, 1992)

Before JOLLY and EMILIO M. GARZA, Circuit Judges, and SHAW, District Judge.*

IT IS ORDERED that the petition for rehearing filed in the above entitled and numbered cause be and the same is hereby DENIED.

ENTERED FOR THE COURT:

\S\

United States Circuit Judge

---

*Chief Judge of the United States District Court for the Western District of Louisiana, sitting by designation.

SECTION C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE RAY G. BESING ASSOCIATES, P.C. AND RAY G. BESING,	§	
Debtors.	§	
RAY G. BESING and RAY G. BESING & ASSOCIATES, P.C.,	§	
Plaintiffs-Appellants,	§	
VS.	§	Civil Action No. CA3-90-2561-D (Bank. Ct. Nos. 388-31750-SAF-11 and 388-31749-SAF-11) (Adversary No. 390-3386)
SEELIGSON, DOUGLAS, FALCONER & VANDEN EYKEL, *a Professional Corporation;* M. J. "IKE" VANDEN EYKEL; THOMAS T. ROGERS; LYNCH, CHAPPELL, ALLDAY & ALSUP; AND SMALL, CRAIG & WERKENTHIN,	§	
Defendants-Appellees.	§	

APPEAL FROM THE
UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
STEVEN A. FELSENTHAL, BANKRUPTCY JUDGE, PRESIDING

FITZWATER, District Judge:

In this appeal by two chapter 11 debtors challenging a summary judgment entered by the bankruptcy court, the court concludes the bankruptcy court correctly gave collateral estoppel

effect to a prior state court judgment. Appellants do not challenge that the elements for collateral estoppel are met. They instead argue that factors relating to the allocation of jurisdiction between two different courts merit the bankruptcy court's deciding the question of bankruptcy law anew. But the state court judgment was a final one when analyzed under Texas or federal law and did not deal with a dischargeability determination, which would fall within the exclusive jurisdiction of the bankruptcy court. *Cf.* 11 U.S.C. § 523(a)(2, 4, 6). The bankruptcy court's summary judgment was not in error and it is, accordingly,

AFFIRMED.

June 27, 1991.

\S\

SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE RAY G. BESING ASSOCIATES, P.C. AND RAY G. BESING,	§	
Debtors.	§	
RAY G. BESING and RAY G. BESING & ASSOCIATES, P.C.,	§	
Plaintiffs-Appellants,	§	
VS.	§	Civil Action No. CA3-90-2561-D (Bank. Ct. Nos. 388-31750-SAF-11 and 388-31749-SAF-11) (Adversary No. 390-3386)
SEELIGSON, DOUGLAS, FALCONER & VANDEN EYKEL, *a Professional Corporation;* M. J. "IKE" VANDEN EYKEL; THOMAS T. ROGERS; LYNCH, CHAPPELL, ALLDAY & ALSUP; AND SMALL, CRAIG & WERKENTHIN,	§	
Defendants-Appellees.	§	

APPEAL FROM THE
UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
STEVEN A. FELSENTHAL, BANKRUPTCY JUDGE, PRESIDING

JUDGMENT

This appeal came on for consideration on the briefs, with oral argument. For the reasons stated in the court's opinion filed

June 27, 1991, the bankruptcy court's judgment entered October 2, 1990 is affirmed.

Costs of this appeal are taxed against plaintiffs-appellants Ray G. Besing & Associates, P.C. and Ray G. Besing pursuant to Fed. R. Bankr. P. 8014.

Entered: June 27, 1991.

NANCY DOHERTY
Clerk of Court

By: \S\

SECTION D

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE RAY G. BESING ASSOCIATES, P.C. AND	§	Case No. 388-31750-SAF-11
RAY G. BESING,	§	Case No. 388-31749-SAF-11
Debtors.	§	
RAY G. BESING and RAY G. BESING & ASSOCIATES, P.C.,	§	
Plaintiffs,	§	
VS.	§	Adv. No. 390-3386
SEELIGSON, DOUGLAS, FALCONER & VANDEN EYKEL, *a Professional Corporation;* M. J. "IKE" VANDEN EYKEL; THOMAS T. ROGERS; LYNCH, CHAPPELL, ALLDAY & ALSUP; AND SMALL, CRAIG & WERKENTHIN, and WALLACE M. SMITH	§	
Defendants.	§	

ORDER DENYING PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT
AND GRANTING DEFENDANTS' MOTIONS
FOR SUMMARY JUDGMENT

On this the 28th day of September, 1990, came on to be heard the Motions for Summary Judgment of Plaintiffs and all of the Defendants in the above-entitled and numbered cause; and the Court having considered said motion, the summary judgment evidence, pleadings and argument, is of the opinion that there is no genuine issue of material fact in connection with the above-

entitled and numbered cause, that Plaintiffs' declaratory judgment action is barred on collateral estoppel grounds and that Plaintiffs' Motion for Summary Judgment should be denied and Defendants' Motions for Summary Judgment should be granted as a matter of law;

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that Plaintiffs' Motion for Summary Judgment is denied and all Defendants' Motions for Summary Judgment are in all things granted; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that summary judgment in all things is hereby entered in the above-entitled and numbered cause in favor of all Defendants and against Plaintiffs Ray G. Besing, Individually, and Ray G. Besing & Associates, P.C.; and that all costs herein be, and they hereby are taxed against Plaintiffs.

SIGNED this 15th day of October, 1990.

\S\

JUDGE PRESIDING

SECTION E

11 U.S.C. § 101

(12) "Debtor" means person or municipality concerning which a case under this title has been commenced;

11 U.S.C. § 108. Extension of time

(a) If applicable nonbankruptcy law, an order entered in a nonbankruptcy proceeding, or an agreement fixes a period within which the debtor may commence an action, and such period has not expired before the date of the filing of the petition, the trustee may commence such action only before the later of—

(1) the end of such period, including any suspension of such period occurring on or after the commencement of the case; or

(2) two years after the order for relief.

11 U.S.C. § 301. Voluntary cases

A voluntary case under a chapter of this title is commenced by the filing with the bankruptcy court of a petition under such chapter by an entity that may be a debtor under such chapter. The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter.

11 U.S.C. § 349. Effect of dismissal

(a) Unless the court, for cause, orders otherwise, the dismissal of a case under this title does not bar the discharge, in a later case under this tile, of debts that were dischargeable in the case dismissed; nor does the dismissal of a case under this title prejudice the debtor with regard to the filing of a subsequent petition under this title, except as provided in section 109(f) of this title.

(b) Unless the court, for cause, orders otherwise, a dismissal of a case other than under section 742 of this title—

(1) reinstates—

(A) any proceeding or custodianship superseded under section 543 of this title;

(B) any transfer avoided under section 522, 544, 545, 547, 548, 549, or 724(a) of this title, or preserved under section 510(c)(2), 522(i)(2), or 551 of this title; and

(C) any lien voided under section 506(d) of this title;

(2) vacates any order, judgment, or transfer ordered, under section 522(i)(1), 542, 550, or 553 of this title; and

(3) revests the property of the estate in the entity in which such property was vested immediately before the commencement of the case under this title.

11 U.S.C. § 350. Closing and reopening cases

(a) After an estate is fully administered and the court has discharged the trustee, the court shall close the case.

(b) A case may be reopened in the court in which such case was closed to administer assets, to accord relief to the debtor, or for other cause.

11 U.S.C. § 546. Limitations on avoiding powers

(a) An action or proceeding under section 544, 545, 547, 548, or 553 of this title may not be commenced after the earlier of—

(1) two years after the appointment of a trustee under section 702, 1104, 1163, 1302, or 1202 of this title; or

(2) the time the case is closed or dismissed.

11 U.S.C. § 547. Preferences

(b) Except as provided in subsection (c) of this section, the trustee may avoid any transfer of an interest of the debtor in property—

(1) to or for the benefit of a creditor;

(2) for or on account of an antecedent debt owed by the debtor before such transfer was made;

(3) made while the debtor was insolvent;

(4) made—

(A) on or within 90 days before the date of the filing of the petition; or

(B) between ninety days and one year before the date of the filing of the petition, if such creditor at the time of such transfer was an insider; and

(5) that enables such creditor to receive more than such creditor would receive it—

(A) the case were a case under chapter 7 of this title;

(B) the transfer had not been made; and

(C) such creditor received payment of such debt to the extent provided by the provisions of this title.

11 U.S.C. § 548. Fraudulent transfers and obligations

(a) The trustee may avoid any transfer of an interest of the debtor in property, or any obligation incurred by the debtor, that was made or incurred on or within one year before the date of the filing of the petition, if the debtor voluntarily or involuntarily—

* * *

11 U.S.C. § 549. Postpetition transactions

(a) Except as provided in subsection (b) or (c) of this section, the trustee may avoid a transfer of property of the estate—

(1) that occurs after the commencement of the case; and

(2)(A) that is authorized only under section 303(f) or 542(c) of this title; or

(B) that is not authorized under this title or by the court.

(b) The trustee may not avoid under subsection (a) of this section a transfer of real property to a good faith purchaser without knowledge of the commencement of the case and for present fair equivalent value unless a copy or notice of the petition was filed, where a transfer of such real property may be

recorded to perfect such transfer, before such transfer is so perfected that a bona fide purchaser of such property, against whom applicable law permits such transfer to be perfected, could not acquire an interest that is superior to the interest of such good faith purchaser. A good faith purchaser without knowledge of the commencement of the case and for less than present fair equivalent value has a lien on the property transferred to the extent of any present value given, unless a copy or notice of the petition was so filed before such transfer was so perfected.

* * *

11 U.S.C. § 1101. Definitions of this chapter

In this chapter [11 USCS §§ 1101 et seq.] —

(1) "debtor in possession" means debtor except when a person that has qualified under section 322 of this title [11 USCS § 322] is serving as trustee in the case;

* * *

11 U.S.C. § 1107. Rights, powers, and duties of debtor in possession

(a) Subject to any limitations on a trustee serving in a case under this chapter, and to such limitations or conditions as the court prescribes, a debtor in possession shall have all the rights, other than the right to compensation under section 330 of this title, and powers, and shall perform all the functions and duties, except the duties specified in sections 1106(a)(2), (3), and (4) of this title, of a trustee serving in a case under this chapter.

(b) Notwithstanding section 327(a) of this title, a person is not disqualified for employment under section 327 of this title by a debtor in possession solely because of such person's employment by or representation of the debtor before the commencement of the case.

11 U.S.C. § 1112. Conversion or dismissal

(a) The debtor may convert a case under this chapter to a case under chapter 7 of this title unless —

(1) the debtor is not a debtor in possession;

(2) the case originally was commenced as an involuntary case under this chapter; or

(3) the case was converted to a case under this chapter other than on the debtor's request.

(b) Except as provided in subsection (c) of this section, on request of a party in interest or the United States trustee, and after notice and a hearing, the court may convert a case under this chapter to a case under chapter 7 of this title or may dismiss a case under this chapter, whichever is in the best interest of creditors and the estate, for cause, including —

(1) continuing loss to or diminution of the estate and absence of a reasonable likelihood of rehabilitation;

(2) inability to effectuate a plan;

(3) unreasonable delay by the debtor that is prejudicial to creditors;

(4) failure to propose a plan under section 1121 of this title within any time fixed by the court;

(5) denial of confirmation of every proposed plan and denial of a request made for additional time for filing another plan or a modification of a plan;

(6) revocation of an order of confirmation under section 1144 of this title, and denial of confirmation of another plan or a modified plan under section 1129 of this title;

(7) inability to effectuate substantial consummation of a confirmed plan;

(8) material default by the debtor with respect to a confirmed plan;

(9) termination of a plan by reason of the occurrence of a condition specified in the plan; or

(10) nonpayment of any fees or charges required under chapter 123 of title 28.

(c) The court may not convert a case under this chapter to a case under chapter 7 of this title if the debtor is a farmer or a corporation that is not a moneyed, business, or commercial corporation, unless the debtor requests such conversion.

(d) The court may convert a case under this chapter to a case under chapter 12 or 13 of this title only if —

(1) the debtor requests such conversion;

(2) the debtor has not been discharged under section 1141(d) of this title; and

(3) if the debtor requests conversion to chapter 12 of this title, such conversion is equitable.

(e) Except as provided in subsection (c) and (f), the court, on request of the United States trustee, may convert a case under this chapter to a case under chapter 7 of this title or may dismiss a case under this chapter, whichever is in the best interest of creditors and the estate if the debtor in a voluntary case fails to file, within fifteen days after the filing of the petition commencing such case or such additional time as the court may allow, the information required by paragraph (1) of section 521, including a list containing the names and addresses of the holders of the twenty largest unsecured claims (or of all unsecured claims if there are fewer than twenty unsecured claims), and the approximate dollar amounts of each of such claims.

(f) Notwithstanding any other provision of this section, a case may not be converted to a case under another chapter of this title unless the debtor may be a debtor under such chapter.

11 U.S.C. § 1121. Who may file a plan

(a) The debtor may file a plan with a petition commencing a voluntary case, or at any time in a voluntary case or an involuntary case.

(b) Except as otherwise provided in this section, only the debtor may file a plan until after 120 days after the date of the order for relief under this chapter.

(c) Any party in interest, including the debtor, the trustee, a creditors' committee, an equity security holders' committee, a creditor, an equity security holder, or any indenture trustee, may file a plan if and only if —

(1) a trustee has been appointed under this chapter;

(2) the debtor has not filed a plan before 120 days after the date of the order for relief under this chapter; or

(3) the debtor has not filed a plan that has been accepted, before 180 days after the date of the order for relief under this chapter, by each class of claims or interests that is impaired under the plan.

(d) On request of a party in interest made within the respective periods specified in subsections (b) and (c) of this section and after notice and a hearing, the court may for cause reduce or increase the 120-day period or the 180-day period referring to in this section.

11 U.S.C. § 1141. Effect of confirmation

(b) Except as otherwise provided in the plan or the order confirming the plan, the confirmation of a plan vests all of the property of the estate in the debtor.

* * *

28 U.S.C. § 151. Designation of bankruptcy courts

In each judicial district, the bankruptcy judges in regular active service shall constitute a unit of the district court to be known as the bankruptcy court for that district. Each bankruptcy judge, as a judicial officer of the district court, may exercise the authority conferred under this chapter [28 USCS §§ 151 et seq.] with respect to any action, suit, or proceeding and may preside alone and hold a regular or special session of the court, except as otherwise provided by law or by rule or order of the district court.

28 USC § 152. Appointment of bankruptcy judges

(a)(1) The United States court of appeals for the circuit shall appoint bankruptcy judges for the judicial districts established in paragraph (2) in such numbers as are established in such paragraph. Such appointments shall be made after considering the recommendations of the Judicial Conference submitted pursuant to subsection (b). Each bankruptcy judge shall be appointed for a term of fourteen years, subject to the provisions of subsection (e). Bankruptcy judges shall serve as judicial officers of the United States district court established under Article III of the Constitution [USCS, Constitution, Art. III].

28 U.S.C. § 1254(1) and (2).

Courts of appeals; certiorari; certified questions

Cases in the courts of appeals may be reviewed by the Supreme Court by the following methods:

(1) By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree;

(2) By certification at any time by a court of appeals of any question of law in any civil or criminal case as to which instructions are desired, and upon such certification the Supreme Court may give binding instructions or require the entire record to be sent up for decision of the entire matter in controversy.

28 U.S.C. § 1291. Final decisions of district courts

The courts of appeals (other than the United States Court of Appeals for the Federal Circuit) shall have jurisdiction of appeals from all final decisions of the district courts of the United States, the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands, except where a direct review may be had in the Supreme Court. The jurisdiction of the United States Court of Appeals for the Federal Circuit shall be limited to the jurisdiction described in

sections 1292(c) and (d) and 1295 of this title [28 USCS §§ 1292(c), (d), 1295].

Bankruptcy Rule 3020(d). Deposit; Confirmation of Plan

(d) *Retained Power*. Notwithstanding the entry of the order of confirmation, the court may enter all orders necessary to administer the estate.

Bankruptcy Rule 3022.

Final Decree in Chapter 11 Reorganization Case.

After an estate is fully administered in a chapter 11 reorganization case, the court, on its own motion or on motion of a party in interest, shall enter a final decree closing the case.

28 U.S.C. § 1334. Bankruptcy cases and proceedings.

(a) Except as provided in subsection (b) of this section, the district courts shall have original and exclusive jurisdiction of all cases under title 11 [11 USCS §§ 101 et seq.].

(b) Notwithstanding any Act of Congress that confers exclusive jurisdiction on a court or courts other than the district courts, the district courts shall have original but not exclusive jurisdiction of all civil proceedings arising under title 11 [11 USCS §§ 101 et seq.], or arising in or related to cases under title 11 [11 USCS §§ 101 et seq.].